

UNITED STATES INTERNATIONAL TRADE COMMISSION
Washington, D.C.

In the Matter of

**CERTAIN INK MARKERS AND
PACKAGING THEREOF**

Investigation No. 337-TA-522

NOTICE OF INVESTIGATION

AGENCY: U.S. International Trade Commission

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 20, 2004, under section 337 of the Tariff Act of 1930, as amended, 19 U.S.C. § 1337, on behalf of Sanford, L.P. of Freeport, Illinois. A supplement to the complaint was filed on August 10, 2004. The complaint, as supplemented, alleges violations of section 337 in the importation into the United States, the sale for importation, and the sale within the United States after importation of certain ink markers and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 807,818 and 2,721,523 and also by reason of infringement of trade dress, the threat or effect of which is to destroy or substantially injure an industry in the United States. The complaint also alleges that there exists an industry in the United States with respect to the asserted intellectual property rights.

The complainant requests that the Commission institute an investigation and, after a hearing, issue a permanent general exclusion order and permanent cease and desist orders.

ADDRESSES: The complaint and supplement, except for any confidential information contained therein, are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, S.W., Room 112, Washington, D.C. 20436, telephone 202-205-2000. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-205-1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-205-2000. General information concerning the Commission may also be obtained by accessing its internet server at <http://www.usitc.gov>. The public record for this investigation may be viewed on the Commission's electronic docket (EDIS) at <http://edis.usitc.gov>.

FOR FURTHER INFORMATION CONTACT: Anne Goalwin, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, telephone 202-205-2574.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930, as amended, and in section 210.10 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.10 (2003).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on August 16, 2004, ORDERED THAT --

- (1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, as amended, an investigation be instituted to determine:
 - (a) whether there is a violation of subsection (a)(1)(C) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain ink markers and packaging thereof by reason of infringement of U.S. Trademark Registration Nos. 807,818 and 2,721,523, and whether an industry in the United States exists as required by subsection (a)(2) of section 337, or
 - (b) whether there is a violation of subsection (a)(1)(A) of section 337 in the importation into the United States, the sale for importation, or the sale within the United States after importation of certain ink markers and packaging thereof by reason of infringement of trade dress, the threat or effect of which is to destroy or substantially injure an industry in the United States.
- (2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:
 - (a) The complainant is --

Sanford, L.P.
29 East Stephenson Street
Freeport, Illinois 61032
 - (b) The respondents are the following companies alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Asia Global (HK) Ltd.
Room M 3FI Phase 3 Kaiser Est Hok Yuen St.
HungHom

Kowloon
Hong Kong

Bangkit USA, Inc.
4280 South Maywood Avenue
Vernon, CA 90058

Cixi City Heng Bao Pen Manufacturer
No. 21 Er Fang Road
Dongqiao
Lijia Village
Zhengqi Town
China

Cixi Guancheng Yangtse River Pen Company
Guancheng Town
Cixi City
Zhejiang, China

Lineplus Corporation
Koyang-City
Rm. 524
Samsun Midas O/T 775-1
Janghang-Dong
Ilsan - Ku
South Korea

LiShui Laike Pen Co., Ltd.
Guanqiao Liancheng Town LiSHui
ZheJiang
HuaiNan 323000
China

Luxor International Pvt. Ltd.
17, Okhla Industrial Estate,
Phase - III,
New Delhi 110 020
India

Midwestern Home Products, Inc.
300 Phillipi Road

Columbus, OH 43228

Mon Ami Co., Ltd.
125-20 Jungdam 1-Dong
Gangnam-Gu
Seoul, 135-957
South Korea

Ningbo Beifa Group Co., Ltd.
Xiaogang Road
Ningbo
Zhejiang, China 315801

Southern States Marketing, Inc.
2066 Airport Industrial Park Drive
Marietta, GA 30062

Uchida of America Corporation
3535 Del Amo Boulevard
Torrance, CA 90503

- (c) Anne Goalwin, Esq., Office of Unfair Import Investigations, U.S. International Trade Commission, 500 E Street, S.W., Room 401-P, Washington, D.C. 20436, who shall be the Commission investigative attorney, party to this investigation; and
- (3) For the investigation so instituted, the Honorable Paul J. Luckern is designated as the presiding administrative law judge.

Responses to the complaint and the notice of investigation must be submitted by the named respondents in accordance with section 210.13 of the Commission's Rules of Practice and Procedure, 19 C.F.R. § 210.13. Pursuant to 19 C.F.R. §§ 201.16(d) and 210.13(a), such responses will be considered by the Commission if received no later than 20 days after the date of service by the Commission of the complaint and notice of investigation. Extensions of time for submitting responses to the complaint will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the administrative law judge and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice and to enter both an initial determination and a final determination containing such findings, and may result in the issuance of a limited exclusion order or a cease and desist order or both directed against such respondent.

By order of the Commission.

Marilyn R. Abbott
Secretary to the Commission

Issued: August 18, 2004